

LR 16. PRETRIAL AND SETTLEMENT PROCEDURES

(a) Pretrial Procedures-Civil Cases.

~~(1) Court Order.~~ Pre-Trial Conference: Unless otherwise specified in this rule, ~~the Presiding Judge or~~ the judge to whom a case is assigned will decide ~~which cases whether the case~~ would benefit from a pretrial conferences ~~pursuant to CR 16~~, order the pretrial conferences, and either conduct such a conferences or assign them ~~case~~ to a judge or other judicial officer for the conference.

(2) Mandatory Joint Confirmation of Trial Readiness. Parties shall complete a Joint Confirmation of Trial Readiness form, file it with the clerk and send copies to the assigned judge by the deadline on the case schedule. Failure to complete and file the form by the deadline may result in sanctions, including possible dismissal of this case. The Joint Confirmation of Trial Readiness Report shall include, at minimum:

- (A) Type of trial and estimated trial length;
- (B) Trial week attorney conflicts;
- (C) Interpreter needs;
- (D) To what extent alternative dispute resolution has been used in the case;
- (E) Any other factors to assist the court to bring about a just, speedy, and economical resolution of the matter.

~~(2)~~(3) Motion by Party. All requests or motions, unless otherwise provided for herein relating to family law matters, for pretrial conferences pursuant to CR 16 must be noted by the deadline on the case schedule and shall be heard by the assigned Judge or as assigned by the Presiding Judge.

~~(3)~~(4) Exchange of Witness and Exhibit Lists. In cases governed by a Case Schedule pursuant to LR 4, the parties shall exchange, not later than 21 days before the scheduled trial date: (A) lists of the witnesses whom each party expects to call at trial; (B) lists of the exhibits that each party expects to offer at trial, except for exhibits to be used only for impeachment; and (C) copies of all documentary exhibits, except for those to be used only for illustrative purposes. In addition, non-documentary exhibits, except for those to be used only for illustrative purposes, shall be made available for inspection by all other parties no later than 14 days before trial. Any witness or exhibit not listed may not be used at trial, unless the Court orders otherwise for good cause and subject to such conditions as justice requires.

~~(4)~~(5) Joint Statement of Evidence. In cases governed by a Case Schedule pursuant to LR 4 the parties shall file, not later than 5 court days before the scheduled trial date, a Joint Statement of Evidence, so entitled, containing (A) a list of the witnesses whom each party expects to call at trial and (B) a list of the exhibits that each party expects to offer at trial. The Joint Statement of Evidence shall contain a notation for each exhibit as to whether all parties agree as to the exhibit's authenticity or admissibility.

~~(5)~~(6) Non-dispositive Pretrial Motions. All non-dispositive pretrial motions and supporting materials, including but not limited to motions to exclude evidence, shall be served and filed pursuant to the requirements of LR 7(b)(2)(A). Responsive documents shall also be served and filed pursuant to the requirements of LR

7(b)(2)(A). In addition, courtesy copies of all motion papers shall be provided to the Judge who will be hearing the motion.

~~(6) Pretrial Conference. In cases that are governed by a Case Schedule pursuant to LR 4, the Court may schedule a Pretrial Conference, which shall be attended by the lead trial attorney of each party who is represented by an attorney and by each party who is unrepresented. The conference may include:~~

- ~~(A) Hearing of non-dispositive pretrial motions;~~
- ~~(B) Filing of trial briefs;~~
- ~~(C) Filing of proposed jury instructions;~~
- ~~(D) Court's estimate of length of trial;~~
- ~~(E) Any other matters that might simplify the issues and bring about a just, speedy, and economical resolution of the matter.~~

Official Comment

Attorneys and parties are expected to exercise good faith in complying with this rule – for example, by not listing a witness or exhibit that the attorney or party does not actually expect to use at trial.

A party wishing to present the testimony of a witness who has been listed by another party may not rely on the listing party to obtain the witness's attendance at trial. Instead, a subpoena should be served on the witness, unless the party is willing to risk the witness's failure to appear.

All witnesses must be listed, including those whom a party plans to call as a rebuttal witness. The only exception is for witnesses the need for whose testimony cannot reasonably be anticipated before trial; such witnesses obviously cannot be listed ahead of time.

(b) Pretrial Procedures in Family Law Cases Involving Children.

(1) Pretrial Conference. In dissolution cases involving families with children, non-parental custody cases, paternity cases not filed by the prosecutor, domestic relocation cases, cases to establish or disestablish paternity and set residential schedules, and in actions to establish or modify a parenting plan, the Court will schedule a pretrial conference, which shall be attended by the lead trial attorney of each party who is represented by an attorney and by each party who is unrepresented. The conference may include:

- (A) Hearing of non dispositive pretrial motions;
- (B) Filing of trial briefs;
- (C) The Court's estimate of length of trial;
- (D) Any other matters that might simplify the issues and bring about a just, speedy and economical resolution of the matter.

(c) Settlement Conferences – All Cases.

(1) By Agreement. By agreement of the parties a settlement conference may be arranged at any time with any Judge or Commissioner who agrees to conduct the conference before or after regular court hours.

(2) Court Order. The Presiding Judge or the judge to whom a case is assigned, or a family law Commissioner in the case of a family law matter not assigned to an individual judge, will decide which cases would benefit from a settlement conference or other alternative dispute resolution process and order the same.

(3) Motion by Party. All requests for settlement conferences, not agreed to by both parties, shall be made by motion to the Presiding Judge or to the Judge to whom the case has been assigned or to a family law Commissioner in a family law case not assigned to an individual Judge.

(4) Preparation for Conference.

(A) Attendance and Preparation Required. The attorney personally in charge of each party's case shall personally attend all settlement conferences and shall come prepared to discuss in detail and in good faith the following:

- (i) All liability issues.
- (ii) All items of special damages or property damage.
- (iii) The degree, nature and duration of any claimed disability.
- (iv) General damages.
- (v) Explanation of position on settlement.

(B) Family Law Cases--Requirements. For all Family Law settlement conferences, each party shall prepare a financial declaration, in form as prescribed by the Office of the Administrator for the Courts, and submit it to the settlement Judge not later than two working days prior to the conference, or as required by the settlement Judge. This form may be supplemented but not be substituted.

(C) Failure to Timely Submit Proper Form. Failure to supply the family law settlement Judge with the appropriate form and attachments in a timely manner may result in the imposition of terms and sanctions as the Judge may deem appropriate.

(5) Parties to Be Available.

(A) Presence in Person. The parties shall, in all settlement conferences, be available and the Judge conducting the conference shall decide whether the parties shall be present in the conference room.

(B) Representative of Insurer. Parties whose defense is provided by a liability insurance company need not personally attend said settlement conference, but a representative of the insurer of said parties, if such a representative is available in King County, shall attend with sufficient authority to bind the insurer to a settlement.

(C) Court May Excuse Attendance. Attendance at a settlement conference of a party may be excused where by reason of health, absence from the county, or other good and sufficient reason compelling his or her personal attendance would be unduly burdensome. Whether or not parties, in non-family law cases, should attend personally shall always be determined in the discretion of the Judge presiding at the settlement conference.

(6) Failure to Attend. Failure to attend the settlement conference in accordance with paragraphs (A), (B), and (C) above may result in the imposition of terms and sanctions as the Judge may deem appropriate.

(7) Proceedings Privileged. Proceedings of said settlement conference shall, in all respects, be privileged and not reported or recorded. No party shall be bound unless a settlement is reached. When a settlement has been reached, the Judge may in his/her discretion, order the settlement agreement, in whole or in case of a partial agreement, then the terms thereof, to be reported or recorded.

(8) Continuances. Continuances of settlement conferences may be authorized only by the settlement conference Judge on timely application.

(9) Pretrial Power of Court. If the case is not settled at a settlement conference, the Judge may nevertheless make such orders as are appropriate in a pretrial conference under CR 16.

(A) In marital proceedings and related cases this power includes

but is not limited to appointment of a child advocate for any dependent children and the appointment of a special master or expert to advise the Court as to certain facts and circumstances relating to the welfare of dependent children, properties of the parties, and the physical and mental condition of the parties.

(10) Judge Disqualified for Trial. A Judge presiding over a settlement conference shall be disqualified from acting as the trial Judge in that matter, unless all parties agree in writing that he/she should so act.